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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,707	05/24/2004	Tracey R. Thomas	57824.0500	3706

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EXAMINER

SCARITO, JOHN D

ART UNIT	PAPER NUMBER
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3691

NOTIFICATION DATE	DELIVERY MODE
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02/09/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/709,707	Applicant(s) THOMAS, TRACEY R.	
	Examiner John D. Scarito	Art Unit 3691	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
 13. ☒ Other: See Continuation Sheet.

/Alexander Kalinowski/
 Supervisory Patent Examiner, Art Unit 3691

Continuation of 3. NOTE: Applicant's proposed amendments appear as an attempt to directly remedy breadth issues pointed out by Examiner in his Final Office Action [see Final Office Action of 11/24/2009, page 4, line 5-page 6, line 20]. There, Examiner indicated that he would not read limitations into Applicant's claims [Id., page 6, lines 2-4]. In this vein, Applicant's proposed amendments essentially re-draft Applicant's claims and materially change the scope of the claims. For example, Applicant's previously presented claims did not consider at least "user income information", "user savings goal information", "a savings amount", "a plurality of outstanding debt payments", "a plurality of penalties", "a penalty associated with ...a payment amount and a payment timing", "said payment hierarchy minimizes said plurality of penalties", "providing loyalty points to [an entity] associated with an outstanding debit payment", etc. Examiner did not previously consider all of these limitations, thus entrance of Applicant's proposed amendments would not reduce or simplify issues for appeal. Applicant's new claims 16 & 17 inherit said changes in claim scope.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's claims still appear too broad in view of the prior art of record. Here, Examiner respectfully asks Applicant to reassess each instance of "based on/upon" in his/her claims. Stated differently, is Applicant reading limitations into such claim language? Does "based on/upon...information" reasonably apprise one of skill in the art in the art what Applicant's invention is?

Further, Applicant argues "prioritizing savings first" [see Applicant's Response, page 8, line 15]. Examiner fails to see where, in particular, savings is prioritized in Applicant's proposed claims. For example, "a savings amount" is determined but is never positively transferred to a savings account and "a payment hierarchy" is determined "based upon said savings amount..." and optionally the same information that said savings amount is based on (i.e. user savings goal information and user income information). This appears to imply equal footing for debt payments. Lastly, Applicant arguments appear to completely disregard the strong motivations of Chevreau with respect to saving first. [see Final Office Action of 11/24/2009, at least page 6, lines 11-15, i.e. idea of saving first "as old as the hills of Babylon"].

Continuation of 13. Other:

Applicant submits that Examiner's §112-2nd rejections "are now rendered moot" [see Applicant's Response, page 7, lines 12-13]. Examiner respectfully disagrees. In particular, Applicant "transferring" step still appears elusive. For example, Applicant's first determining step indicates "a savings amount for transferring" and Applicant's third determining step indicates "in response to said transferring". Stated more simply, Applicant never positively recites an actual transfer as ever occurring or when it occurs. Applicant must particularly claim his/her invention.